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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-839, A-583-833]

Polyester Staple Fiber from the Republic of Korea and Taiwan: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping Duty Orders in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 8, 2017, the Department of Commerce (Commerce) received a request for revocation, in part, of the antidumping duty (AD) orders on polyester staple fiber (PSF) from the Republic of Korea (Korea) and Taiwan with respect to low-melt PSF. We preliminarily determine that the *Orders* shall be revoked, in part, with respect to low-melt PSF, as described below. Commerce invites interested parties to comment on these preliminary results.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Emily Halle or Nicholas Czajkowski, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0176 or (202) 482-1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2000, Commerce published the AD orders on PSF from Korea and Taiwan.¹ On December 8, 2017, DAK Americas, LLC; Nan Ya Plastics Corporation, America; Auriga Polymers; and Palmetto Synthetics LLC (*i.e.*, the domestic producers) requested that Commerce conduct changed circumstances reviews pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b) with respect to any coarse denier low-melt PSF that may be currently covered by the *Orders* to avoid any potential overlap in coverage between the *Orders* and the pending less-than-fair-value investigations of low-melt polyester staple fiber from Korea and Taiwan.²

On March 16, 2018, Commerce published the notice of initiation of the requested changed circumstances reviews.³ Because the domestic producers did not provide any supporting documentation for their statement that they accounted for substantially all of the domestic production of PSF, in the *Initiation Notice*, we invited interested parties to submit comments concerning industry support for the potential revocation, in part, as well as comments and/or factual information regarding the changed circumstances reviews.⁴ We received no comments or factual information from other interested parties.

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber from the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000) (*Orders*).

² See *Polyester Staple Fiber From the Republic of Korea and Taiwan: Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping Duty Orders in Part*, 83 FR 11678 (March 16, 2018) (*Initiation Notice*); see also *Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 34277 (July 24, 2017); *Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 4906 (February 2, 2018).

³ *Id.*

⁴ *Id.*

Scope of the Orders

The product covered by the orders is certain polyester staple fiber (PSF). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these orders may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.25 is specifically excluded from these orders. Also specifically excluded from these orders are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to these orders is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65.⁵ Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the orders is dispositive.

Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke the *Orders*, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an AD or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a

⁵ These HTSUS numbers have been revised to reflect changes in the HTSUS numbers at the suffix level.

changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and Commerce's regulations require that "substantially all" domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.⁶ Commerce has interpreted "substantially all" to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.⁷

Commerce's regulations do not specify a deadline for the issuance of the preliminary results of a changed circumstances review, but provide that Commerce will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated.⁸ Commerce did not issue a combined notice of initiation and preliminary results. As discussed above, while the statement provided by the domestic producers indicated they accounted for substantially all domestic production of PSF, the domestic producers did not offer any

⁶ See Section 782(h) of the Act and 19 CFR 351.222(g).

⁷ See *Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders*, 77 FR 67790, 67791 (November 14, 2012) (*Honey from Argentina Prelim*), unchanged in *Honey from Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders*, 77 FR 77029 (December 31, 2012) (*Honey from Argentina Final*).

⁸ See 19 CFR 351.216(e).

documentation supporting their claim.⁹ Thus, Commerce did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Orders* as to low-melt PSF under consideration here. Further, Commerce requested interested party comments on the issue of domestic industry support of a potential partial revocation of the *Orders*.¹⁰ Commerce received no comments concerning a lack of industry support with respect to these changed circumstances reviews.

As noted in the *Initiation Notice*, domestic producers requested revocation of the *Orders*, in part, and supported their request. In the absence of any interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Orders*, in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to low-melt PSF, as described above. We will consider comments from interested parties on these preliminary results of reviews before issuing the final results of these reviews.¹¹

Accordingly, we are notifying the public of our intent to revoke the *Orders*, in part. We intend to carry out this revocation by replacing the following language currently in the scope of the *Orders*: “{i}n addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core,” with the following language: “{i}n addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component polyester fiber having a

⁹ See *Initiation Notice*.

¹⁰ *Id.*

¹¹ See e.g., *Honey from Argentina Prelim*; unchanged in *Honey from Argentina Final*.

polyester fiber component that melts at a lower temperature than the other polyester fiber component.”

If we make a final determination to revoke the *Orders* in part, then Commerce will apply this determination to each order as follows. If, at the time of the final determinations, there have been no completed administrative reviews of an order, then the partial revocation will be applied to unliquidated entries of merchandise subject to the changed circumstances review that were entered or withdrawn from warehouse, for consumption, on or after the date that corresponds to the date suspension of liquidation first began in the relevant proceeding. If, at the time of the final determinations, there have been completed administrative reviews of an order, then the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the changed circumstances reviews that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the applicable order. Therefore, under this scenario, the partial revocation for merchandise subject to the *Orders* would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after May 1, 2017.¹²

Public Comment

Interested parties are invited to comment on these preliminary results of reviews in accordance with 19 CFR 351.309(c)(1)(ii). Case briefs may be submitted no later than ten days

¹² The most recent administrative review of the Korea AD order was completed on August 2, 2017, and covered May 1, 2016 through April 30, 2017. See *Polyester Staple Fiber from the Republic of Korea: Rescission of Antidumping Duty Administrative Review; 2016–2017*, 82 FR 37052 (August 8, 2017) (which rescinds the review for the Korea AD order, A-580-839). For the Taiwan AD order, A-583-833, Commerce did not receive a request to conduct an administrative review for the period of review (POR) May 1, 2016 through April 30, 2017. Commerce issued instructions to U.S. Customs and Border Protection on July 21, 2017, liquidating all entries for all firms for the POR.

after the date of publication of these preliminary results.¹³ Rebuttals to case briefs, limited to issues raised in the case briefs, may be filed no later than five days after the due date for case briefs.¹⁴ All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit, room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time on the due dates set forth in this notice.

Any interested party may request a hearing within 14 days of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.¹⁵

Commerce intends to issue the final results of these changed circumstances reviews, which will include its analysis of any written comments received, no later than 270 days after the date on which these reviews were initiated, or within 45 days if all parties to the proceeding agree to the outcome of the review.

If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders*, in part, we will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to AD duties all unliquidated entries of the

¹³ Commerce is altering the deadline for the submission of case briefs, as authorized by 19 CFR 351.309(c)(1)(ii).

¹⁴ Commerce is altering the deadline for the submission of rebuttal briefs, as authorized by 19 CFR 351.309(d)(1).

¹⁵ See 19 CFR 351.310(d).

merchandise covered by the exclusion language above entered or withdrawn from warehouse, for consumption, on or after the effective dates indicated above. In addition, we will instruct CBP to refund any estimated AD cash deposits collected on such entries.

The current requirement for cash deposits of estimated AD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed circumstances reviews. If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders*, in part, we will instruct CBP to discontinue collecting cash deposits on entries of merchandise covered by the exclusion language above effective on the date of publication of the final results of these changed circumstances reviews.

These preliminary results of reviews and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: April 12, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

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